

Appl. No. 09/392,865  
Response Dated June 7, 2004  
Reply to final Office Action of January 5, 2004

Attorney Docket No. 81788.0020  
Customer No. 26021

**Remarks:**

This is in response to the final Office Action dated January 5, 2004. The time period for responding to the outstanding Office Action is extended to June 7, 2004, the first business day following Saturday, June 5, 2004, by the enclosed petition for two-month extension of time. Applicant amends the sole independent claim to address the sole issue remaining in this prosecution. Entry of the amendment and allowance of the application is respectfully requested.

The final Office Action rejects prior claim 18 as reciting a limitation not supported in the specification. Specifically, the Office Action rejects claim 18 for its recitation of "a second silicon nitride layer ... being removed by etching so as not to exist on said source/drain diffusion layers" (emphasis added). As pointed out in the Office Action, only a portion of the second silicon nitride layer 11 is removed from the source/drain diffusion layers (7a, 7b) and so the broadest understanding of the claim language is inconsistent with the disclosure. Applicant addresses this rejection by deleting the phrase "so as not to exist on said source/drain diffusion layers." Applicant submits that amended claim 18 and its dependent claim 21 are consistent with the requirements of 35 U.S.C. § 112 and are in condition for allowance.

Applicant believes the foregoing amendments comply with requirements of form and thus may be admitted under 37 C.F.R. § 1.116(b). Alternatively, if these amendments are deemed to touch the merits, admission is requested under 37 C.F.R. § 1.116(c). In this connection, applicant did not earlier appreciate the difficulty with this claim language. The discussion in the outstanding final Office Action clearly demonstrated to the applicant the basis for the rejection and applicant offers a limited amendment to address the rejection. Finally, admission is requested under 37 C.F.R. § 1.116(b) as presenting rejected claims in better form for consideration on appeal.

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In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,  
HOGAN & HARTSON L.L.P.

Date: June 7, 2004

By:   
William H. Wright  
Registration No. 36,312  
Attorney for Applicant(s)

500 South Grand Avenue, Suite 1900  
Los Angeles, California 90071  
Phone: 213-337-6700  
Fax: 213-337-6701